

**AGENDA FOR THE
REGULAR COUNCIL MEETING OF
MONDAY, JULY 26, 2004 AT 2:00 P.M.
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

- ITEM-1: ROLL CALL.
- ITEM-10: INVOCATION.
- ITEM-20: PLEDGE OF ALLEGIANCE.

=== LEGISLATIVE SCHEDULE ===

Special Orders of Business

- ITEM-30: Approval of Council Minutes.
- ITEM-31: Harold K. Brown Day. (Cont. from June 28, 2004, Item S401 and July 12, 2004, Item 32.)
COUNCILMEMBER LEWIS’ RECOMMENDATION: Adopt the resolution.
- ITEM-32: Rod Luck Day.
COUNCILMEMBER MADAFFER’S RECOMMENDATION: Adopt the resolution.

NON-AGENDA PUBLIC COMMENT

Non-agenda public comment is taken on Tuesday pursuant to the San Diego Municipal Code Section 22.0101.

CLOSED SESSION NOTICES, DISCLOSURE, AND PUBLIC COMMENT

In accordance with the San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meeting, adopted on March 29, 2004, this portion of the agenda is reserved for City Attorney comment, public comment, and City Council discussion of the content of the Closed Session Agenda scheduled for 9 a.m. on Tuesday, July 27, 2004. The Closed Session Agenda is separately available in the Office of the City Clerk and also posted at the same locations as the Open Session Agenda, including the City internet address.

NOTE: Members of the public wishing to address the City Council on any item on the Closed Session Agenda should reference the closed session item number from the Closed Session Docket on the speaker slip. Speakers may speak “in favor” or “in opposition” to the subject.

Information Item - No Action Required - The City Council shall:

1) Consider any oral report from the City Attorney or City negotiators; 2) Accept testimony from any member of the public wishing to address the City Council on any item appearing on the Closed Session Agenda; 3) Questions and discussion by Council Members, limited to the facts as disclosed by the City Attorney or City negotiators and the basis or justification for consideration of the matter in closed session 4) Refer matters discussed to closed session.

REQUESTS FOR CONTINUANCE

The Council will now consider requests to continue specific items.

=== LEGISLATIVE SCHEDULE (Continued) ===

Adoption Agenda, Consent Items

- ITEM-50: Eighth Supplemental to the Agreement for Partial Use and Occupancy of San Diego Jack Murphy Stadium (Qualcomm Stadium) Between City of San Diego and San Diego Chargers. Mission Valley Community Area. (Dists. All)
CITY COUNCIL'S RECOMMENDATION: Adopt the ordinance which was introduced on 7/12/2004.
- ITEM-51: Environmental Appeals Regulations. City-Wide. (Dists. All)
CITY COUNCIL'S RECOMMENDATION: Adopt the ordinance which was introduced as amended on 7/13/2004.
- ITEM-52: Lease Agreement with the United States of America to Operate a Control Tower at Brown Field Airport. Otay Mesa Community Area. (Dist. 8)
CITY MANAGER'S RECOMMENDATION: Introduce the ordinance.
- ITEM-53: Valet Parking Ordinance.
CITY MANAGER'S RECOMMENDATION: Introduce the ordinance.
- ITEM-60: Four actions related to Municipal General Election and Municipal Special Election on November 2, 2004.
CITY CLERK'S RECOMMENDATION: Introduce and adopt the ordinances in Subitems A and B, and adopt the resolutions in Subitems C and D:
- ITEM-100: Two actions related to Award of Contract to Orion Construction Corp. for the Construction of Black Mountain Ranch Recycled Water Storage Tank. Rancho Penasquitos Community Area. (Dist. 1)
CITY MANAGER'S RECOMMENDATION: Adopt the resolutions.
- ITEM-101: Second Amendment to Consultant Agreement with TY Lin International for the North Torrey Pines Road Bridge over Los Penasquitos Creek (Bridge #57C-206). Torrey Pines Community Area. (Dist. 1)
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.

=== **LEGISLATIVE SCHEDULE (Continued)** ===

Adoption Agenda, Consent Items (Continued)

- ITEM-102: First Amendment to Retainer Agreement with Sandler, Lasry, Laube, Byer & Valdez, LLP, for Outside Counsel Services in Glickman v. The City of San Diego, and Shahan v. City of San Diego.
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-103: Cooperative Agreement with Caltrans for the Design and Construction of Landscaping at the State Route 56/Camino Del Sur Interchange. Torrey Highlands Community Area. (Dist. 1)
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-104: First Amendment to the Agreement with D-Max Engineering, Inc., for As-Needed Storm Water Inspections.
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-105: Grant from the Ash Institute for Democratic Governance and Innovation to Metropolitan Wastewater Department's "Bid-to-Goal" Program.
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-106: City of San Diego "6 to 6" Extended School Day Program Funding.
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-107: Establishment of an Angle Parking Zone on 21st Street. Southeastern San Diego Community Area. (Dist. 8)
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-108: Appointment to the Board of Commissioners Public Facilities Financing Authority.
MAYOR MURPHY'S RECOMMENDATION: Adopt the resolution.
- ITEM-109: Appointment to the Human Relations Commission.
MAYOR MURPHY'S RECOMMENDATION: Adopt the resolution.

=== LEGISLATIVE SCHEDULE (Continued) ===

Adoption Agenda, Consent Items (Continued)

- ITEM-110: Reappointment to the San Diego County Water Authority Board of Directors.
MAYOR MURPHY'S RECOMMENDATION: Adopt the resolution.
- ITEM-111: Lesbian, Gay, Bisexual, Transgender Pride 30th Anniversary Week.
MAYOR MURPHY'S AND DEPUTY MAYOR ATKINS' RECOMMENDATION: Adopt the resolution.
- ITEM-112: San Diego Historical Society Junipero Serra Museum Day.
COUNCILMEMBER ZUCCHET'S RECOMMENDATION: Adopt the resolution.
- ITEM-113: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico. (Dist. 8)
TODAY'S ACTION IS: Adopt the resolution.
- ITEM-114: Declaring a Continued State of Emergency Due to Economic Circumstances in the San Diego-Tijuana Border Region. (Dist. 8)
TODAY'S ACTION IS: Adopt the resolution.
- ITEM-115: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).
TODAY'S ACTION IS: Adopt the resolution.
- ITEM-116: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.
TODAY'S ACTION IS: Adopt the resolution.

=== LEGISLATIVE SCHEDULE (Continued) ===

Public Notices

- ITEM-250: Submission of Ballot Proposals.
- ITEM-251: Arguments Supporting or Opposing Propositions.
- ITEM-252: Notice of Completion and Acceptance of Subdivision Improvement
Agreement - Fairbanks Highlands.

Non-Docket Items

Adjournment in Honor of Appropriate Parties

Adjournment

=== EXPANDED CITY COUNCIL AGENDA ===

SPECIAL ORDERS OF BUSINESS

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS:

Approval of Council Minutes for the meetings of:

06/14/2004

06/15/2004

06/21/2004

06/22/2004

06/28/2004

06/29/2004

ITEM-31: Harold K. Brown Day.

(Continued from the meeting of June 28, 2004, Item S401, and July 12, 2004, Item 32, last continued at the request of Councilmember Lewis, for further review.)

COUNCILMEMBER LEWIS' RECOMMENDATION:

Adopt the following resolution:

(R-2004-1411 Cor. Copy)

Commending Harold K. Brown as Founder of the San Diego State University Center for Community Economic Development (CED) and for his years of leadership and excellent community economic development work throughout the City of San Diego and the surrounding region;

Proclaiming July 26, 2004 to be "Harold K. Brown Day" in the City of San Diego.

SPECIAL ORDERS OF BUSINESS (Continued)

ITEM-32: Rod Luck Day.

COUNCILMEMBER MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-64)

Recognizing the many accomplishments and dedication of Rod Luck;

Proclaiming July 26, 2004 to be "Rod Luck Day" in the City of San Diego.

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REQUEST FOR CONTINUANCE

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CONSENT ITEMS

The following listed items are considered to be routine, and the appropriate Environmental Impact Reports have been considered. These items are indicated on the docket by a preceding asterisk (*).

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING WITH THE READING AND ADOPTION:

Items 50 and 51.

ORDINANCES TO BE INTRODUCED:

Items 52 and 53.

ORDINANCES TO BE INTRODUCED AND ADOPTED, WITH RESOLUTIONS TO BE ADOPTED:

Item 60.

RESOLUTIONS TO BE ADOPTED:

Items 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, and 116.

ADOPTION AGENDA, CONSENT ITEMS

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING
WITH THE READING AND ADOPTION:

- * ITEM-50: Eighth Supplemental to the Agreement for Partial Use and Occupancy of San Diego Jack Murphy Stadium (Qualcomm Stadium) Between City of San Diego and San Diego Chargers.

(Mission Valley Community Area. Districts-All.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 7/12/2004. (Council voted 7-1. Councilmembers Peters, Zucchet, Lewis, Maienschein, Madaffer, Inzunza, and Mayor Murphy voted yea. Councilmember Frye voted nay. Deputy Mayor Atkins not present):

(O-2005-4 Cor. Copy)

Authorizing and directing the City Manager to execute the Eighth Supplement to the Agreement;

Authorizing and directing the City Manager to execute an appropriate mutual release and agreement for the dismissal of the Litigation, if the Eighth Supplement is executed by the City Council and the Chargers;

Authorizing and directing the City Manager and City Attorney to take such actions as may be necessary or appropriate to implement the intent and purposes of this ordinance and the Eighth Supplement.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING
WITH THE READING AND ADOPTION: (Continued)

* ITEM-51: Environmental Appeals Regulations.

(City-Wide. Districts-All.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the ordinance which was introduced as amended on 7/13/2004. (Council
voted 7-1):

(O-2004-107 Cor. Copy)

Amending Chapter 11, Article 2, Division 3, of the San Diego Municipal Code,
by amending Sections 112.0301 and 112.0308, and by adding Section 112.0310;
amending Division 5 by amending Section 112.0510, and by adding new Section
112.0520; amending Chapter 11, Article 3, Division 1, by amending Section
113.0103, amending Chapter 12, Article 8, Division 2, by amending Section
128.0207, all pertaining to environmental determinations.

ADOPTION AGENDA, CONSENT ITEMS

ORDINANCES TO BE INTRODUCED:

- * ITEM-52: Lease Agreement with the United States of America to Operate a Control Tower at Brown Field Airport.

(Otay Mesa Community Area. District-8.)

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2005-5)

Introduction of an Ordinance authorizing the City Manager to execute a ten-year lease agreement with the United States of America, acting through the Federal Aviation Administration (FAA), to operate and maintain a Control Tower on approximately ½ acre of City-owned property at the Brown Field Airport at no rent under the terms and conditions set forth in that lease agreement.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

CITY MANAGER SUPPORTING INFORMATION:

The Federal Aviation Administration (FAA) has operated the Control Tower at Brown Field Airport since 1972. The air control tower provides services to airborne aircraft operating in the vicinity of the airport and to aircraft operating on the airport area through the use of air/ground communications, visual signaling and other devices. The control tower is vital to the safe operation of Brown Field as a general aviation airport. The lease includes approximately one half acre of land and the control tower. The FAA built the tower on the site and will continue to maintain and operate the facility under this proposed lease.

A preliminary review by the Real Estate Assets Acquisition and Valuation division estimates market rent for the tower site to be in the range of \$375-\$500 per month. However, United States Code Title 49, Subtitle VII, Part B Chapter 421, Subchapter 1 Section 47107, requires any airport owner or operator to provide, without charge to the Government, property interests that will be used for carrying out activities related to air traffic control or navigation if the airport accepts any Federal grant funds.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES TO BE INTRODUCED: (Continued)

* ITEM-52: (Continued)

CITY MANAGER SUPPORTING INFORMATION: (Continued)

Consideration for the proposed lease is the operation and maintenance of the Air Traffic Control facility. The facility will be operated for the benefit of the public at no cost to the City. There is a cancellation clause that will allow either party to terminate the agreement with one hundred eighty (180) days prior notice.

Term: 10 years

Rent: None

Size: Approximately ½ acre

FISCAL IMPACT:

None.

Herring/Griffith/KEJ

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES TO BE INTRODUCED: (Continued)

* ITEM-53: Valet Parking Ordinance.

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2005-6)

Introduction of an Ordinance amending Chapter 8, Article 6, Division 00, of the San Diego Municipal Code by amending Section 86.03.1; amending Chapter 8, Article 6, by adding a new Division 22 titled "Valet Parking," and by adding Sections 86.2201 titled "Purpose," 86.2202 titled "Definitions," 86.2203 titled "Designation of Valet Parking Zones," 86.2204 titled "Application for Permits," 86.2205 titled "Duration of Permit," 86.2206 titled "Permit Requirements," 86.2207 titled "Permit Revocation, and 86.2208 titled "Penalty Provisions," all pertaining to valet parking.

CITY MANAGER SUPPORTING INFORMATION:

Currently, curbside valet parking service may be offered on City streets under a permit system outlined in Council Policy 200-15. The proposed ordinance will codify the City Manager's authority to regulate valet parking and allow for the charging of fees consistent with City Manager Report CMR-04-107 entitled "Establishment of New Rates and Fees and Adjustments to Existing Rates and Fees" approved on May 25, 2004.

The fees for 2005 will be: Initial Application Fee \$700; Annual Renewal (Inspection) Fee \$300.

FISCAL IMPACT:

Estimated increased revenue from the collection of valet permit fees is approximately \$20,000.

Mendes/Boekamp/VW

ADOPTION AGENDA, CONSENT ITEMS

ORDINANCES TO BE INTRODUCED AND ADOPTED WITH RESOLUTIONS TO BE ADOPTED:

- * ITEM-60: Four actions related to Municipal General Election and Municipal Special Election on November 2, 2004.

CITY CLERK'S RECOMMENDATION:

Introduce and adopt the ordinances in Subitems A and B, and adopt the resolutions in Subitems C and D:

Subitem-A: (O-2005-7)

Introduction and adoption of an Ordinance calling a Municipal General Election in the City of San Diego, on Tuesday, November 2, 2004, for the purpose of electing candidates for Mayor, City Attorney, and Councilmember for District 1; and consolidating the Municipal General Election with the California State General Election to be held on the same date.

Subitem-B: (O-2005-8)

Introduction and adoption of an Ordinance calling a Municipal Special Election in the City of San Diego on November 2, 2004, for the purpose of submitting to the qualified voters of the City one or more ballot propositions; and consolidating the Municipal Special Election with the California State General Election to be held on the same date.

Subitem-C: (R-2005-74)

Adoption of a resolution requesting the consolidation of a Municipal General Election to be held in the City of San Diego on November 2, 2004, with the California State General Election to be held on the same date;

Authorizing the City Auditor and Comptroller to reimburse the County of San Diego in full for the services performed by the Registrar of Voters for the City of San Diego in connection with the election services.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES TO BE INTRODUCED WITH RESOLUTIONS TO BE ADOPTED:
(Continued)

* ITEM-60: (Continued)

Subitem-D: (R-2005-75)

Adoption of a resolution requesting the consolidation of a Municipal Special Election to be held in the City of San Diego on November 2, 2004, with the California State General Election to be held on the same date;

Authorizing the City Auditor and Comptroller to reimburse the County of San Diego in full for the services performed by the Registrar of Voters for the City of San Diego in connection with the election services.

CITY CLERK'S SUPPORTING INFORMATION:

This is to request that the City Council adopt ordinances calling a Municipal General Election and a Municipal Special Election as well as resolutions requesting the consolidation of these elections with the Statewide General Election to be held on November 2, 2004. The resolutions for both the Municipal General and Municipal Special Election requesting consolidation include a request for the services of the Registrar of Voters.

The Municipal General Election will be held for the purpose of conducting elections for Mayor, City Attorney, and Councilmember for District 1. The Municipal Special Election will be held for the purpose of conducting elections for any and all propositions the Council approves for placement on the ballot.

Abdelnour

Aud. Cert. 2500050 Revised.

ADOPTION AGENDA, CONSENT ITEMS

RESOLUTIONS:

- * ITEM-100: Two actions related to Award of Contract to Orion Construction Corp. for the Construction of Black Mountain Ranch Recycled Water Storage Tank.

(Rancho Penasquitos Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2005-95)

Authorizing the City Manager to establish contract funding phases and to award the Project contract to Orion Construction Corporation in an amount not to exceed \$3,343,245, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the City Manager to execute funding Phase 1 of the construction contract with Orion Construction Corporation in the amount of \$1,900,000;

Authorizing the additional expenditure of an amount not to exceed \$1,198,163, for construction and related costs as follows: \$1,131,001 from Water Fund 41500, CIP-70-954.0 (Black Mountain Ranch RW Storage Tank) and \$67,162 from Water Fund 41500, CIP-70942.0, Annual Allocation – Pooled Contingency, for the purpose of providing funds for the Project and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-100: (Continued)

Subitem-B: (R-2005-96)

Stating for the record that the information contained in the final EIR, including any comments received during the public review process, has been previously reviewed and considered by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with approval of Black Mountain Ranch Recycled Water Storage Tank;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

CITY MANAGER SUPPORTING INFORMATION:

The Water Department Capital Improvements Program will be constructing the Black Mountain Reclaimed Water Storage Tank, a 3 million gallon above ground circular steel reclaimed water storage tank. The proposed storage tank would be located southeast of Black Mountain Road/Carmel Valley Road intersection. This tank will provide needed reclaimed water storage for customers in the northern part of the North City Water Reclamation Plant's service area. Also, the project will allow the Water Department to operate the reclaimed water distribution system in the most efficient and effective manner.

The CIP Program has met with the Rancho Penasquitos Community Planning Group, and other community advisory groups who reviewed and approved this project.

This project was previously presented to and previously approved by the Natural Resources and Culture Committee at its meeting of July 16, 2003. City Council approved \$3,572,506 for this project on August 4, 2003 (R-298279 for the amount of \$3,178,400) and on October 8, 2001 (R-295541 for the amount of \$394,106).

In November, 2003, this project was bid and the bids exceeded the Engineer's Cost Estimate by 32% and were rejected. This increase in cost was due to the sudden increase in the price of steel occurring worldwide. The project's engineer cost estimate was revised to reflect the current market increase in the steel prices and the project was re-bid. Orion Construction Corp. presented the lowest bid of \$3,343,245, 4.7% lower than the revised cost estimate.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-100: (Continued)

CITY MANAGER SUPPORTING INFORMATION: (Continued)

This project has received approval (R-294612, adopted 2/27/2001) for State Water Resources Control Board funds and Federal Bureau of Reclamation grant funding. The State grant will cover 20 percent of the construction cost, and Federal grant will cover 25 percent of the total project cost. As a condition for State grant funding, this project is advertising as a prevailing wage contract, and is issuing a Notice To Proceed (NTP) by no later than October 19, 2004. If this NTP date is not met by the City, the City could loose the 45 percent funding.

This action authorizes the award of this construction contract and authorizes the additional funding for the project.

FISCAL IMPACT:

Phase funding in the amount of \$1,198,163 will be available as follows: \$1,131,001 from Water Fund 41500, CIP-79-954.0, North City Reclamation System (Black Mountain Reclaimed Water Storage Tank), and \$67,162 from Water Fund 41500, CIP-70-942.0, Pooled Contingency - Reclaimed Water Distribution System.

Mendes/Belock/VB

Aud. Cert. 2500032.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-101: Second Amendment to Consultant Agreement with TY Lin International for the North Torrey Pines Road Bridge over Los Penasquitos Creek (Bridge #57C-206).

(Torrey Pines Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-67)

Authorizing the City Manager to execute a Second Amendment to the Agreement (Agreement) with TY Lin International, for professional services for North Torrey Pines Road Bridge (Project), in an amount not to exceed \$214,891 under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$214,891 from CIP-53-050.0, North Torrey Pines Road Bridge over Los Penasquitos Creek, Fund No. 38734, Highway Bridge Replacement and Rehabilitation Program, for the purpose of providing funds for the above referenced Project, provided that the City Auditor and Comptroller first furnishes a certificate certifying that funds are available;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

The project consists of replacing the structurally deficient North Torrey Pines Road Bridge over Los Penasquitos Creek with a new bridge approximately 340 feet in length. The project will also provide for improvements to approach roadway, sidewalk on the west side, bike lanes, two bus turnouts, and two ADA compliance access ramps to the beach on the north side connecting, under the bridge.

Per RR-292528 dated 12/6/1999, the City Council approved the consultant agreement with TY Lin International for the preparation of plans, specifications, and estimates.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-101: (Continued)

CITY MANAGER SUPPORTING INFORMATION: (Continued)

The First Amendment to the Agreement (City Manager Action C12198 dated 09/2/2003) with TY Lin International provided for updating the plans, specifications, and estimates to current design standards, which include the new ADA requirements and provisions for stormwater collection and discharge. In addition, the amendment also provided for engineering services to incorporate conditions specified in the California Coastal Commission permit.

The Second Amendment to the Agreement with TY Lin International will provide for professional services related to construction support. This includes attending meetings, updating traffic control plans as needed, and responding to requests for information; coordination and site visits for quality control; review of contractor submittals; and updating plans at the end of construction per as-built drawings.

FISCAL IMPACT:

The total fee for providing services under this amendment is \$214,891. The base fee is \$194,891 and \$20,000 is available for additional services, if required. Funds for this action is available in Highway Bridge Replacement and Rehabilitation Program, Fund No. 38734.

Loveland/Belock/PB

Aud. Cert. 2500023.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-102: First Amendment to Retainer Agreement with Sandler, Lasry, Laube, Byer & Valdez, LLP, for Outside Counsel Services in Glickman v. The City of San Diego, and Shahan v. City of San Diego.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1397)

Authorizing the City Manager to execute a First Amendment to Retainer Agreement between the City of San Diego and Sandler, Lasry, Laube, Byer, and Valdez, LLP, for outside counsel services in Glickman v. The City of San Diego (Case No. GIC767025) and Shahan v. City of San Diego (Case No. GIC773950), now coordinated into Red Light Photo Enforcement Cases (Case No. JCCP4305);

Declaring that this amendment adds a total of \$200,000 to the original contract amount, as amended, thereby increasing the compensation under the agreement to a total amount not to exceed \$400,000;

Authorizing the expenditure of an amount not to exceed \$200,000 from the Public Liability Reserve – General Fund, Fund 81140, for the purpose of providing funds for the above agreement.

CITY MANAGER SUPPORTING INFORMATION:

In 2001, several class action lawsuits were filed to challenge the City's then-existing red light photo enforcement system, which photographed drivers running red lights. These lawsuits have been coordinated into a state-wide lawsuit, entitled Red Light Photo Enforcement Cases, JCCP No. 4305, which will be set for trial in San Diego within the next year.

In 2002, the City hired the firm of Sandler, Lasry, Laube, Byer, and Valdez, LLP ("Firm") to represent it in this lawsuit. The City Council authorized up to \$200,000 for the representation. This money has been spent on Firm's representation, and another \$200,000 is recommended to be authorized for Firm's continued representation of the City in this matter.

Superior Court Linda Quinn has denied the City's motion for summary judgment, and the case should be set for trial in late 2004 or early 2005. The City estimates that \$200,000 will be necessary for attorney's fees and expert costs for Firm to defend the City throughout the trial.

Lexin/Lopez/AL

Aud. Cert. 2500012.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-103: Cooperative Agreement with Caltrans for the Design and Construction of Landscaping at the State Route 56/Camino Del Sur Interchange.

(Torrey Highlands Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-59)

Authorizing the City Manager to execute a Cooperative Agreement with the State of California, through its Department of Transportation, for the design and construction of landscaping at the SR-56 and the Camino Del Sur Interchange under the terms and conditions set forth in the Cooperative Agreement;

Authorizing the City Auditor and Comptroller to increase CIP-52-463.0 in the FY 2005 Capital Improvements Program Budget the appropriation of \$870,000 from Fund 79015;

Authorizing the City Auditor and Comptroller, to appropriate and expend an amount not to exceed \$870,000 from Fund No. 79015, for the design and construction of CIP-52-463.0.

CITY MANAGER SUPPORTING INFORMATION:

In December 2002 the City of San Diego and Caltrans entered into a Cooperative Agreement to authorize Caltrans to design the west bound on ramp and auxiliary lane and eastbound off ramp from SR-56 to Camino del Sur. In December 2003, the City of San Diego and Caltrans entered into a Cooperative Agreement to authorize Caltrans to construct these facilities. A Cooperative Agreement is now required to authorize the expenditure of \$870,000 to Caltrans, for the design and construction of landscaping on a total of 16.2 acres on the west side of the SR-56/Camino Del Sur Interchange and the east side of the interchange in the area between the main lanes and the on and off ramps.

FISCAL IMPACT:

\$870,000 of Torrey Highland Facilities Benefit Assessment Funds will be transferred to CIP-52-643.0, State Route 56 - Carmel Valley Road to Black Mountain Road with this action.

Mendes/Belock/PB

Aud. Cert. 2401216.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-104: First Amendment to the Agreement with D-Max Engineering, Inc., for As-Needed Storm Water Inspections.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-83)

Authorizing the City Manager to execute the First Amendment to the Agreement, for As-Needed Storm Water Inspections with D-Max Engineering, Inc;

Authorizing the expenditure of an additional amount not to exceed \$55,000 from Fund 100, Storm Water Operating budget, for purposes of funding the agreement and amendments;

Authorizing the City Manager to exercise up to four additional option years under the same terms and conditions of the agreement and amendments, each option year in an amount not to exceed \$200,000, provided the City Auditor and Comptroller first furnishes one or more certificates demonstrating the funds necessary for expenditure are, or will be, on deposit in the City Treasury;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

The City of San Diego entered into an As-Needed Agreement with D-Max Engineering (C-12597, filed 3/4/2004), to conduct storm water inspections at industrial facilities for up to 5 years. Inspections include interaction with facility representatives, Storm Water Pollution Prevention Plan review, review/interpret technical information, visual inspection of the facility, completion of the inspection check list, photo and narrative documentation, and identification of storm water violations. The compensation limit in the agreement was set at an amount not to exceed \$75,000 per year. Inspection of industrial facilities by the City of San Diego is required by the San Diego Municipal Storm Water Permit. More inspections each year are desired than the current limit will allow.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-104: (Continued)

CITY MANAGER SUPPORTING INFORMATION: (Continued)

This Amendment No.1 will increase the not to exceed amount by \$55,000 for the current year for additional storm water inspections, and convert the remaining 4 years of the agreement to option years, each option not to exceed \$200,000 per year. Each option year would be exercised at the discretion of the City Manager, contingent on City Council approval of sufficient funding in the Operating Budget of the Storm Water Division. The higher annual limit amount was selected because the number of inspections required by the Municipal Storm Water Permit is expected to increase in future years.

FISCAL IMPACT:

Funds are available from the Storm Water Operating Budget.

Mendes/Tulloch/AS

Aud. Cert. 2401204.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-105: Grant from the Ash Institute for Democratic Governance and Innovation to Metropolitan Wastewater Department's "Bid-to-Goal" Program.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-79)

Authorizing the City Manager to accept a grant of \$10,000 from the Ash Institute for Democratic Governance and Innovation at the John F. Kennedy School of Government (the Institute) for the promotion of the Bid-to-Goal Program of the Metropolitan Wastewater Department, pursuant to the terms and conditions in the letter from the Institute to the City dated September 29, 2003;

Authorizing an expenditure not to exceed \$10,000, solely and exclusively for promoting the Bid-to-Goal Program, provided that the City Auditor and Comptroller first furnishes one or certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit in the City Treasury.

CITY MANAGER SUPPORTING INFORMATION:

The Metropolitan Wastewater Department's Public Contract Operations "Bid-to-Goal" Program was selected as a finalist for the 2002 Innovations in American Government Award, sponsored by the Institute for Government Innovation at Harvard University's John F. Kennedy School of Government. Accordingly, a grant in the amount of \$10,000 was awarded by the Ash Institute for Democratic Governance and Innovation at the John F. Kennedy School of Government to the City of San Diego Metropolitan Wastewater Department for the promotion of the "Bid-to-Goal" Program.

FISCAL IMPACT:

Upon completion of the fully executable agreement, the City will be authorized to expend \$10,000 of the grant funds.

Mendes/Tulloch/JH

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-106: City of San Diego “6 to 6” Extended School Day Program Funding.

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-63)

Authorizing the City Manager to accept the State of California Department of Education grant funds (After School Education and Safety Program (ASESP) state grant funds) awarded to San Diego’s “6 to 6” Extended School Day Program and to enter into agreements to expend these funds beginning FY 2005 through FY 2009, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Manager to enter into a Memorandum of Understanding with San Diego Unified School District to reflect additional grant funds;

Declaring that the additional funding for the City of San Diego’s “6 to 6” program is contingent upon execution of San Diego Unified School District’s MOU.

CITY MANAGER SUPPORTING INFORMATION:

On June 3, 2003, City Council adopted R-298024 to accept State of California Department of Education grant funds for fiscal years 2003-2007.

All state and federal grant funds are passed to the City of San Diego via Memorandum of Understanding (MOU) with the San Diego Unified School District. The current MOU expires August 31, 2004. The new MOU would cover the period of September 1, 2004 - June 30, 2005 and would reflect \$12,737,389 in pass-through grants based on the latest state allocations, and minor administration changes which have been agreed to between the School District and City staff for improved program coordination. Based on the Fiscal Year 2005 budget, the City General Fund will match the grant funding with \$2,566,883.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-106: (Continued)

CITY MANAGER SUPPORTING INFORMATION: (Continued)

City dollars will be used to: 1) fund eighteen sites through December 31, 2004 that are pending new grant funds, 2) fund twenty-six sites ineligible for state grant funds at a 23% reduced level as compared to Fiscal Year 2004, and 3) fund program administration at \$359,737. This matching requirement will be funded by the existing "6 to 6" Extended School Day Program within the Community and Economic Development Department budget. Therefore, it is requested that City Council accept these grant funds for Fiscal Year 2005, approve the MOU with the San Diego Unified School District, and authorize the City Manager to enter into agreements with San Diego's "6 to 6" providers to expend these funds beginning in FY 2005.

The execution of the MOU is contingent upon the approval of the San Diego City Schools Board, which is scheduled to vote on this action on July 27, 2004.

SUMMARY OF GRANT FUND AWARDS

<u>SOURCE</u>	<u>FUND</u>	<u>REVENUE ACCOUNT</u>	<u>PASS THRU AMOUNT</u>
State Department of Education- ASEP Cohort I	19350	76410	\$ 7,192,995
State Department of Education- ASEP Cohort II	19350	76410	\$ 4,003,181
State Department of Education- ASEP Cohort III	19350	76410	<u>\$ 1,541,213</u>
			\$12,737,389

Herring/Cunningham/JD

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-107: Establishment of an Angle Parking Zone on 21st Street.

(Southeastern San Diego Community Area. District-8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-72)

Establishing angle parking on the west side of 21st Street between Commercial Street and Julian Avenue, pursuant to authority conferred by and in accordance with the provisions of Section 86.03 of the San Diego Municipal Code;

Authorizing the installation of the necessary signs and markings to be made on said street; and the regulations hereinabove imposed shall become effective upon the installation of such signs.

CITY MANAGER SUPPORTING INFORMATION:

This action will authorize the City Manager to install an angle parking zone on the west side of 21st Street between Commercial Street and Julian Avenue. This action is in accordance with Municipal Code Section 86.03. 21st Street is a commercial street. The sole business that occupies the block on the west side expressed concern with the shortage of parking which impacts its operation. They requested the City to convert existing parallel parking to angle parking on the west side of the street. A petition signed by 100% of the adjacent property owners was submitted to the city supporting the installation of angle parking. A field survey by staff indicated that there is sufficient room for angle parking on the west side of the street and that it will result in a gain of two parking spaces. Therefore, angle parking is recommended. In addition, the Southeastern San Diego Planning Committee supports this action.

FISCAL IMPACT:

\$500. Funds are budgeted in the Streets Division for this purpose.

Mendes/Boekamp/VW

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-108: Appointment to the Board of Commissioners Public Facilities Financing Authority.

(See memorandum from Mayor Murphy dated 7/14/2004, with resume attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-99)

Council confirmation of the appointment by the Mayor of Gordon L. Gerson to serve as a member of the Board of Commissioners of the Public Facilities Financing Authority, and shall serve at the pleasure of the City Council and the Redevelopment Agency (Agency) of the City of San Diego and may be removed at any time, with or without cause, at the sole discretion of the City Council and the Agency, replacing Cheryl D. Kendrick, who has resigned.

- * ITEM-109: Appointment to the Human Relations Commission.

(See memorandum from Mayor Murphy dated 7/15/2004, with resume attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-100)

Council confirmation of the appointment by the Mayor of Alejandro Balvaneda to serve as a member of the Human Relations Commission, for a term ending July 22, 2006, to replace Juan Antonio Ulloa, who resigned.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-110: Reappointment to the San Diego County Water Authority Board of Directors.

(See memorandum from Mayor Murphy dated 7/14/2004, with resume attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-98)

Council confirmation of the reappointment by the Mayor of the City of San Diego of Benjamin A. Haddad, to serve as a member of the San Diego County Water Authority Board of Directors, for a term ending July 15, 2010.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-111: Lesbian, Gay, Bisexual, Transgender Pride 30th Anniversary Week.

MAYOR MURPHY'S AND DEPUTY MAYOR ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2005-35)

Recognizing the many civic contributions of the lesbian, gay, bisexual, and transgender community in San Diego, and encouraging all people to share in the pride of our City's diverse citizenry by participating in the 30th annual San Diego LGBT Pride rally, parade, and festival;

Proclaiming July 26 to August 1, 2004 to be "Lesbian, Gay, Bisexual, Transgender Pride 30th Anniversary Week" in the City of San Diego.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-112: San Diego Historical Society Junipero Serra Museum Day.

COUNCILMEMBER ZUCCHET'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-78)

Recognizing the San Diego Historical Society and the Junipero Serra Museum for their efforts to preserve and present history;

Proclaiming July 16, 2004 to be "Serra Museum Day" in the City of San Diego.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-113: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District-8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-1245)

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

- * ITEM-114: Declaring a Continued State of Emergency Due to Economic Circumstances in the San Diego-Tijuana Border Region.

(District-8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-42)

Declaring a Continued State of Emergency due to economic circumstances in the San Diego-Tijuana border region.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-115: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-1360)

Declaring a Continued Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) for the purpose of implementing a one-year clean needle and syringe exchange program.

CITY MANAGER SUPPORTING INFORMATION:

California Health and Safety Code section 11364.7 (effective January 1, 2000) acknowledges the public health threat posed by the sharing of needles and syringes by injection drug users. The Code requires a local jurisdiction to declare a local emergency due to the existence of a critical local public health crisis in order to establish a clean needle and syringe exchange program. In order to permit development and implementation of a pilot clean needle and syringe exchange program, today's action continues the state of emergency first declared by the City Council on November 27, 2001.

- * ITEM-116: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-1232)

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

PUBLIC NOTICES:

Items are listed under Public Notice as a matter of public record only. These items do not require Council action and there is no public testimony.

ITEM-250: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred back to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the November 2, 2004 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	5/28/2004	158	LAST DATE (10:00 a.m.) for public, departments, and agencies to submit ballot proposals to City Clerk for review by Rules Committee.
Wednesday	6/16/2004	139	Rules Committee review of ballot proposals.
Monday	6/21/2004	134	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee.
Monday	6/28/2004	127	Council adopts propositions for ballot; directs City Attorney to prepare ordinances.
Monday	through 7/19/2004	to 106	
Monday	7/26/2004	99	Council adopts ordinances prepared by City Attorney.
Friday	8/06/2004	88	Last day for City Clerk to file with Registrar of Voters all elections material.
Thursday	8/19/2004	75	Last day to file ballot arguments with City Clerk.

If you have questions, please contact the Office of the City Clerk at (619) 533-4025.

PUBLIC NOTICES: (Continued)

Items are listed under Public Notice as a matter of public record only. These items do not require Council action and there is no public testimony.

ITEM-251: ARGUMENTS SUPPORTING OR OPPOSING PROPOSITIONS

For propositions approved by the Council for submittal to the qualified voters of the City of San Diego at the Municipal General Election to be held on Tuesday, November 2, 2004, the City Clerk has fixed 5:00 p.m. on Thursday, August 19, 2004, as a reasonable date prior to such election after which no arguments for or against City Propositions may be submitted to the Clerk.

Any argument for or against any City proposition shall not exceed 300 words in length and may be filed by the Council, or any member or members of the Council authorized by the Council, or the bona fide sponsors or proponents of the measure, or any bona fide association of citizens or individual voter, or any combination of voters and associations.

All arguments must be accompanied by a statement signed by each author that the argument is true and correct to the best of his/her knowledge and belief. (Forms for this statement are available in the Office of the City Clerk.)

An argument shall not be accepted unless accompanied by the name or names of the person or persons submitting it, or if submitted on behalf of an organization, the name of the organization and the name of at least one of its principal officers. No more than five signatures shall appear with any argument submitted. At least one of the individuals signing the argument must be a registered voter in the City of San Diego. In case any argument is signed by more than five persons, the signatures of the first five shall be printed.

Arguments may be changed or withdrawn by their proponents until and including the date fixed by the City Clerk.

Arguments shall be submitted to the City Clerk at the Office of the City Clerk, 2nd Floor, City Administration Building, 202 "C" Street, San Diego, California, 92101.

PUBLIC NOTICES: (Continued)

Items are listed under Public Notice as a matter of public record only. These items do not require Council action and there is no public testimony.

ITEM-252: Notice of Completion and Acceptance of Subdivision Improvement Agreement.

Notice is hereby given that the City Manager of the City of San Diego intends to file a "Notice of Completion and Acceptance of Subdivision Improvement Agreement" indicating that the improvements included in the Subdivision Improvement Agreement have been satisfactorily completed for the following subdivisions:

SUBDIVISION

COMMUNITY AREA

Fairbanks Highlands

Carmel Valley

The certification shall be recorded 15 days after the date this notice appears on the Council Docket or shortly thereafter. If any person wishes to object to the filing of this notice, such person should communicate the objection on or before that date to the Director of Development Services or to the Subdivision Engineer, City Operations Building, 1222 First Avenue (MS 507), San Diego, CA 92101.

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT